

DATED THIS

4th

DAY OF

April

2019

- (1) ARUN DISTRICT COUNCIL
- (2) WEST SUSSEX COUNTY COUNCIL
- (3) MR PETER HUDSON

Agreement pursuant to Section 106 of
the Town and Country Planning Act 1990
relating to land Formerly Westside
Supplies Unit West of 17 & 18 Durban
Road, Bognor Regis, PO22 9QT
Planning ref: BR/90/18/PL

Arun District Council
Maltravers Road
Littlehampton
West Sussex
BN17 5LF
DX 57406 LITTLEHAMPTON

Date: 4th April 2019

PARTIES:

1. **ARUN DISTRICT COUNCIL** of Arun Civic Centre, Maltravers Road, Littlehampton, West Sussex, BN17 5LF ("the Council")
2. **WEST SUSSEX COUNTY COUNCIL** of County Hall, West Street, Chichester, West Sussex, PO19 1RQ ("the County Council")
3. **MR PETER HUDSON** c/o HYMAN HILL of 10-12 Buckingham Road, Shoreham-By-Sea, West Sussex BN43 5UA ("the Owner")

WHEREAS

1. The District Council is the Local Planning Authority and the Local Housing Authority for the area in which the Land is situated
2. The County Council is the Education Authority, the Library Authority, the Fire and Rescue Authority and the Highway Authority for the area in which the Land is situated
3. The Owner is registered as freehold owner of that part of the Land at HM Land Registry comprised in the title number WSX58998
4. The Owner has made the Application and is proposing to carry out the Development
5. This Agreement is made as a Deed

NOW THIS DEED WITNESSETH as follows:

1. Interpretation

- 1.1 In this Agreement unless otherwise stated the following expressions shall where the context so admits have the following meanings:

" Act" means the Town and Country Planning Act 1990 as amended

"Affordable Housing" means any form of housing identified within legislation national planning policy framework or a ministerial statement as meeting the requirements of affordable housing planning obligation under section 106 of the Act (or any successor legislation) or the provision of which would make such a planning obligation unnecessary and may include but is not limited to

- social rented housing
- affordable rented housing
- shared ownership housing
- intermediate housing (including intermediate rent, shared equity and low cost homes for sale)

“Affordable Housing Contribution”

means a financial contribution of eighty-six thousand seven hundred and fifty pounds (£86,750) towards the provision of Affordable Housing within the District of Arun

“Application”

means an application in respect of the Land for the Development and given Council reference BR/90/18/PL

“BCIS Index”

Means the Building Cost Information Service Index published by the Royal Institute of Chartered Surveyors

“Commencement”

means the carrying out of a material operation as defined in section 56(4) of the Act in respect of the Development but excluding for the purposes of this Agreement and for no other purpose) any operation relating to works of investigations in respect of land contamination or remedial action in respect thereof enabling works, site clearance, archaeological investigations and digs exploratory boreholes operations permitted by the Town and Country Planning (General Permitted Development) Order 1995 the erection of hoardings and fencing temporary diversion of services and signage (including the formation of temporary construction accesses) and **“Commence ”** shall be construed accordingly

“Commencement Notice”

Means the written notice confirming the Commencement of the Development in accordance with clause 16

“CPI”

means the Consumer Price Index published from time to time by the Office of National Statistics

“the Development”

means the development of the Land by the Demolition of two storey building & erection of three storey block of 8 No. one bedroom

flats & 6 No. two bedroom flats with access from Durban Road (resubmission following BR/87/16/PL)

“Fire and Rescue Service Contribution”

means a financial contribution of £283.00 (two hundred and eighty-three pounds) *which is calculated using current occupancy rates from census statistics published by the Office for National Statistics and payable in accordance with the Second Schedule of this Agreement being a contribution of fire service infrastructure (excluding fire hydrants) in the vicinity of the Land to serve the additional needs of the community generated by the Development and to be used towards the supply and installation of additional fire safety equipment to vulnerable persons homes in West Sussex Fire and Rescue Services Southern Area serving Bognor Regis PROVIDED THAT should Commencement of Development take place after 2021, the sum shall be re-calculated using the latest published census statistics published by the Office for National Statistics*

“Index”

means the “All Items” index figure of the Index of Retail Prices published by the Office for National Statistics or any successor government office, ministry or department

“Index Linked”

means in relation to the Council indexation (which may increase or decrease) calculated by multiplying the relevant sum by Final Index Figure
Base Index Figure

Where:

Base Index Figure equals the latest published figure in the Index at the date of this Agreement and

Final Index Figure equals the latest figure published in the index at the date of the relevant payment is made

means in relation to the County Council Contributions, such increase to sums payable to the County Council by an amount

equal to the proportionate increasing the All In Tender Price Index published by the Building Costs Information Service of the Royal Institute of Chartered Surveyors between the quarter preceding the date of this Agreement and the quarter preceding the date of payment of the relevant contribution to the County Council as set out in Clause 13.

"Interest Rate"

means interest at the rate of 4% above the Bank of England base rate applicable at the relevant payment date which shall be calculated on a day to day basis

"Land"

means land known as Land at Formerly Westside Supplies Unit West of 17 & 18 Durban Road, Bognor Regis, PO22 9QT shown for identification purposes edged red on the Plan and being registered at the Land Registry under the title numbers WSX58998

"Libraries Contribution"

means a financial contribution of three thousand and three pounds (£3,003) to be paid to the County Council.

This contribution is calculated using current occupancy rates from census statistics published by the Office for National Statistics and payable in accordance with the Second Schedule of this Agreement being a financial contribution towards the costs of providing the additional library infrastructure required to accommodate the extra demands for library services that would be generated by the Development and to be used towards the purchase of additional stock at Bognor Regis Library PROVIDED THAT should Commencement of Development take place after 2021, the sum shall be re-calculated using the latest published census statistics published by the Office for National Statistics

"Operative Date"

means the date the Development is Commenced

"Permission"

means a planning permission for the Development granted pursuant to the Application

“Plan”	Means the plan attached to this agreement as Appendix 1.
“Planning Authority”	means the Council and the County Council
“Primary Education Contribution”	means a financial contribution of six thousand two hundred and fifty-one pounds (£6,251) to be paid to the County Council. This contribution is calculated using <i>current occupancy rates from census statistics published by the Office for National Statistics and payable in accordance with the Second Schedule of this Agreement being a financial contribution towards the cost of providing the additional education infrastructure required to accommodate the extra demands for primary education services that would be generated by the Development and to be used towards additional equipment at Bersted Green Primary School PROVIDED THAT should Commencement of Development take place after 2021, the sum shall be re-calculated using the latest published census statistics published by the Office for National Statistics</i>
“Residents”	means the owners and occupiers of individual dwelling units to be constructed on the Land
“RICS”	means the Royal Institute of Chartered Surveyors
“Secondary Education Contribution”	means a financial contribution of six thousand seven hundred and twenty –seven pound (£6,727) to be paid to the County Council. This contribution is calculated using <i>current occupancy rates from census statistics published by the Office for National Statistics and payable in accordance with the Second Schedule of this Agreement being a financial contribution towards the cost of providing the additional education infrastructure required to accommodate the extra demands for primary education services that would be generated by the Development and to be used towards additional equipment at the Regis School PROVIDED THAT should Commencement</i>

of Development takes place after 2021, the sum shall be re-calculated using the latest published census statistics published by the Office for National Statistics

“Sixth Form Education Contribution”

means a financial contribution of one thousand, five hundred and seventy-six pounds (£1,576) to be paid to the County Council. This contribution is calculated using current occupancy rates from census statistics published by the Office for National Statistics and payable in accordance with the Second Schedule of this Agreement being a financial contribution towards the cost of providing the additional education infrastructure required to accommodate the extra demands for primary education services that would be generated by the Development and to be used towards additional equipment at the Regis School Sixth Form PROVIDED THAT should Commencement of Development takes place after 2021, the sum shall be re-calculated using the latest published census statistics published by the Office for National Statistics

2. INTERPRETATION

- 2.1 Clause headings shall not affect the interpretation of this Deed.
- 2.2 A “**person**” includes a natural person, corporate or unincorporated body (whether or not having a separate legal personality).
- 2.3 A reference to a “**company**” shall include any company, corporation or other body corporate, where and however incorporated or established.
- 2.4 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 2.5 Unless the context otherwise requires a reference to one gender shall include a reference to other genders.
- 2.6 A reference to any party shall include that party’s representatives, successors and permitted assigns and to any person deriving title through or under the party and in the case of the Council and the County Council the successors to their respective statutory functions.

- 2.7 Unless the context otherwise requires a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 2.8 Unless the context otherwise requires a reference to a statute or statutory provision shall include any subordinate legislation made from time to time under that statute or statutory provision.
- 2.9 A reference to “**writing**” and “**written**” does not include fax or email.
- 2.10 References to clauses and Schedules are to the clauses and schedules of this deed
- 2.11 An obligation on a party not to do something includes an obligation not to allow that thing to be done
- 2.12 Any words following the terms “**including**”, “**include**”, “**in particular**”, “**for example**” or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 2.13 Where an obligation falls to be performed by more than one person, the obligation can be enforced against every person so bound jointly and against each of them individually

3. LEGAL BASIS

- 3.1 This Deed is made under Section 106 of the Act Section 111 of the Local Government Act 1972 and Section 1 of the Localism Act 2011.
- 3.2 The covenants, restrictions and requirements imposed upon the Owners under this Deed create planning obligations under Section 106 of the Act and are enforceable by the Council and the County Council as appropriate in accordance with Section 106 of the Act as local planning authorities against the Owners.

4 CONDITIONALITY

- 4.1 This Deed is conditional upon:
 - 4.1.1 the grant of the Planning Permission
 - 4.1.2 the Commencement of the Development,save for the provisions of Clauses 4,6,7,8, 10,14 ,15 and 16 which shall come into effect immediately upon completion of this Deed.
- 4.2 In the event that the Planning Application or any Planning Condition is subject to an appeal then each Planning Obligation in this Deed is also conditional upon:

4.2.1 The Secretary of State or the planning inspector deciding the appeal being satisfied that it is:

4.2.1.1 Necessary to make the Development acceptable in planning terms; and

4.2.1.2 Directly related to the Development; and

4.2.1.3 Fairly and reasonably related in scale and kind to the Development; and

4.2.1.4 Complies, in all other respects with Regulation 122 of the CIL Regulations

4.2.2 In the event that the Secretary of State or the planning inspector deciding the appeal expressly states in his Decision Letter that any individual planning obligation within the Deed is not compliant with the CIL Regulations and/or the NPPF or is immaterial to the grant of the Planning Permission and that no weight has been given to the same in reaching his decision then that planning obligation or those planning obligations will cease to have effect and shall be void for the purposes of this Deed and shall have no effect and the Owner shall not be obliged to comply with the terms of that obligation and the remaining clauses will remain in full force and effect provided that severance is achievable.

4.3 In the event that the Council or the County Council adopt a charging schedule under the CIL Regulations prior to Planning Permission being granted, the Owners shall be released any of the obligations in this Deed that relate to an item or project included on the Council and/or County Council's regulation 123 list of infrastructure.

5 THE OWNERS' COVENANTS

5.1 The Owners covenant with the Council so as to bind the Land to perform the obligations as set out in First Schedule.

5.2 The Owners covenant with the County Council so as to bind the Land to perform the obligations as set out in Second Schedule.

5.3 The Owners covenant with the County Council to provide a Commencement Notice to the County Council not less than 10 working days before the Operative Date

6 THE COUNCIL'S COVENANTS

6.1 The Council covenants with the Owners and the County Council as set out in the Third Schedule.

7 THE COUNTY COUNCIL'S COVENANTS

- 7.1 The County Council covenants with the Owners and the Council as set out in the Fourth Schedule.

8 MISCELLANEOUS

- 8.1 The Owners shall pay to the Council on completion of this Deed the reasonable legal costs of the Council incurred in the negotiation, preparation and execution of this Deed in the sum of £ 1,000.00
- 8.2 The Owners shall pay to the County Council on completion of this Deed the reasonable legal costs of the County Council incurred in the negotiation, preparation and execution of this Deed £850.00
- 8.3 No provisions of this Deed shall be enforceable under the Contracts (Rights of Third Parties) Act 1999.
- 8.4 This Deed shall be registrable as a local land charge by the Council.
- 8.5 Where the agreement, approval, consent or expression of satisfaction is required by the Owners from the Council or the County Council under the terms of this Deed such agreement, approval or consent or expression of satisfaction shall not be unreasonably withheld or delayed and any notices shall be deemed to have been properly served if sent by recorded delivery to the principal address or registered office (as appropriate) of the relevant party.
- 8.6 Following the performance and satisfaction of all the obligations contained in this Deed the Council shall at the Owners' request effect the cancellation of all entries made in the Register of Local Land Charges in respect of this Deed.
- 8.7 Insofar as any clause or clauses of this Deed are found (for whatever reason) to be invalid illegal or unenforceable then such invalidity illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Deed.
- 8.8 This Deed shall cease to have effect (insofar only as it has not already been complied with) if the Planning Permission shall be quashed, revoked or otherwise withdrawn or (without the consent of the Owners) it is modified by any statutory procedure or expires prior to the Commencement of Development.
- 8.9 Nothing in this Deed shall prohibit or limit the right to develop any part of the Land in accordance with a planning permission (other than the Planning Permission) granted (whether or not on appeal) after the date of this Deed.
- 8.10 Nothing contained or implied in this Deed shall prejudice or affect the rights discretions powers duties and obligations of the Council or the County Council under all statutes by laws statutory instruments orders and regulations in the exercise of their functions as a local authority

9 EXCLUSIONS OF LIABILITY

- 9.1 No person shall be liable for any breach of any of the Planning Obligations or other provisions of this Deed after it shall have parted with its entire interest in the Land, or such part of the Land to which the breach relates, but without prejudice to liability for any subsisting breach arising prior to parting with such interest.
- 9.2 No person shall be liable for any breach of any of the Planning Obligations or other provisions of this Deed which relate to a part of the Land in which it does not have an interest.
- 9.3 Notwithstanding any other provision of this Deed the obligations under this Deed shall not be binding or enforceable against:
- 9.3.1 Any mortgagee of any tenant or person to whom an Affordable Housing Provider grants a shared ownership lease or any receiver appointed by such mortgagee or any person deriving title through any such mortgagee or receiver.
 - 9.3.2 Any person to whom a shared ownership lease of an Affordable Dwelling is granted.
 - 9.3.3 Any person who has acquired either a reversionary interest or a new lease in an Affordable Dwelling pursuant to the terms of a shared ownership lease.
 - 9.3.4 Any Affordable Housing Provider
- 9.5 The obligations in this Deed shall not bind or be enforceable against any statutory undertaker who has or takes in future an interest in the Land for the purpose of providing apparatus pursuant to its statutory undertaking for the Development or against Network Rail in the event that part of the Land is transferred to Network Rail pursuant to the provisions of this Deed
- 9.6 Any legal charge entered into in respect of the Land or any part of the Land after this Deed has been completed shall take effect subject to this Deed PROVIDED THAT the mortgagee under such a legal charge shall have no liability under this Deed unless it causes the breach after it becomes a mortgagee in possession of the land comprised in the legal charge and the mortgagee shall not be liable for any breach of this Deed that occurs prior to the mortgagee taking possession of the land

10 WAIVER

No waiver (whether expressed or implied) by the Council or Owners of any breach or default in performing or observing any of the covenants terms or conditions of this Deed shall constitute a continuing waiver and no such waiver

shall prevent the Council or the Owners from enforcing any of the relevant terms or conditions or for acting upon any subsequent breach or default.

11 CHANGE IN OWNERSHIP

The Owners agree with the Council to give the Council immediate written notice of any change in ownership of any of its interests in the Land occurring before all the obligations under this Deed have been discharged such notice to give details of the transferee's full name and registered office (if a company or usual address if not) together with the area of the Land or unit of occupation purchased by reference to a plan provided that the Owners shall not be required to give notice to the Council of any change of ownership affecting a Dwelling.

12 FUTURE SECTION 73 CONSENTS

- 12.1 Subject to clauses 12.2 to 12.5 below, if any Section 73 Consent is granted after the date of this Deed:
 - 12.1.1 the obligations in this Deed shall relate to and bind such Section 73 Consent; and
 - 12.1.2 the definitions of Planning Application, Development and Planning Permission (other than for the purposes of clause 1) shall be construed to include reference to (respectively) the planning application for the Section 73 Consent the development permitted by the Section 73 Consent and the Section 73 Consent itself;
- 12.2 nothing in this clause shall fetter the discretion of the Council in determining any planning application for a Section 73 Consent and the appropriate planning obligations required in connection with the determination of the same;
- 12.3 to the extent that any of the obligations in this Deed have already been discharged at the date that a Section 73 Consent is granted they shall remain discharged for the purposes of the Section 73 Consent;
- 12.4 the provisions of this clause 12 shall not apply to any Section 73 Consent which necessitates or requires amendments to the substantive terms or obligations of or contained within this Deed; and
- 12.5 the Council reserves the right to insist upon the completion of a separate planning obligation by deed of agreement in connection with any Section 73 Consent if the Council (acting reasonably) considers it necessary to do so.

13 INDEX LINKED

- 13.1 Unless there is an express provision to the contrary the Owners agree with the Council that any sum payable by the Owners and referred to in Schedule 1 shall be increased by the application of the following formula:

$$A = \frac{(B \times C)}{D}$$

- Where A is the sum actually payable on the date of payment
 B is the original sum mentioned in this Deed
 C is the RPI Index for the month two months before the date of payment
 D is the RPI Index for the month two months before the date that Planning Permission is granted
 C/D is equal to or greater than 1

- 13.2 Unless there is an express provision to the contrary the Owners agree with the County Council that any sum payable by the Owners and referred to in the Second Schedule shall be increased by the application of the following formula:

$$A = (B \times C) \text{ divided by } D$$

- Where A is the sum actually payable on the Specified Date
 B is the original sum mentioned in this Deed
 C is the BCIS Index for the quarter preceding the Specified Date
 D is the BCIS Index for the quarter preceding the date that Planning Permission is granted
 C/D is equal to or greater than 1

- 13.3 Where reference is made to an index (including the RPI Index and the BCIS Index) and that index ceased to exist or is replaced or rebased then it shall include reference to any index which replaces it or any rebased index (applied in a fair and reasonable manner to the periods before and after rebasing under this Deed) or in the event the index is not replaced to an alternative reasonably comparable basis or index as the Council or the County Council (as applicable) shall advise the Owners in writing.

14 INTEREST

If any payment due under this Deed is paid late, Interest will be payable from the date payment is due to the date of payment.

15 VAT

All consideration given in accordance with the terms of this Deed shall be

exclusive of any value added tax properly payable.

16 NOTICES

16.1 A notice or other communication to be given under or in connection with this deed must be in writing and must be:

16.1.1 delivered by hand; or

16.1.2 sent by prepaid first class post or other next working day delivery service.

16.2 Any notice or other communication to be given under this deed must be sent to the relevant party as follows:

16.2.1 to the Council at: Group Head of Planning, Arun Civic Centre Maltravers Road, Littlehampton, West Sussex BN17 5LF marked for the attention of the Planning Department and quoting the Planning Application number;

16.2.2 to the County Council at Monitoring and Records Team, Strategic Planning Division, County Hall, West Street, Chichester, West Sussex, PO19 1RQ quoting the Planning Application number:

16.2.3 to the Owner at: *[insert address for service of notices on Owner]*

or at such other address as the relevant party shall specify by notice to the other parties

16.3 Any notice or other communication given in accordance with clause 16.1 and clause 16.2 will be deemed to have been received:

16.3.1 if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the address provided that if delivery occurs before 9 am on a Working Day, the notice will be deemed to have been received at 9 am on that day, and if delivery occurs after 5 pm on a Working Day, or on a day which is not a Working Day, the notice will be deemed to have been received at 9 am on the next Working Day;

16.3.2 if sent by pre-paid first class post or other next working day delivery service at 9 am on the second Working Day after posting.

16.4 A notice or other communication given under this deed shall not be validly given if sent by email.

16.5 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

17 JURISDICTION

This Deed is governed by and interpreted in accordance with the law of England and the parties submit to the non-exclusive jurisdiction of the courts of England.

18 DELIVERY

The provisions of this Deed (other than this clause which shall be of immediate effect) shall be of no effect until this Deed has been dated.

FIRST SCHEDULE

The Owners Covenants with the Council

The Owners covenant with the Council as follows:

1 AFFORDABLE HOUSING CONTRIBUTION

- 1.1 Prior to the Commencement of the Development to pay to the Council the Affordable Housing Contribution.
- 1.2 Not to cause or allow the Commencement of the Development before the Affordable Housing Contribution has been paid to the Council

SECOND SCHEDULE

The Owner's Covenants with the County Council

The Owner Covenants with the County Council as follows:

1 PRIMARY EDUCATION CONTRIBUTION

- 1.1 Prior to the Commencement of the Development to pay to the County Council the Primary Education Contribution.
- 1.2 Not to cause or allow the Commencement of the Development before the Primary Education Contribution has been paid to the County Council.

2 SECONDARY EDUCATION CONTRIBUTION

- 2.1 Prior to the Commencement of the Development to pay to the County Council the Secondary Education Contribution.
- 2.2 Not to cause or allow the Commencement of the Development before the Secondary Education Contribution has been paid to the County Council.

3 SIXTH FORM EDUCATION CONTRIBUTION

- 3.1 Prior to the Commencement of the Development to pay to the County Council the 6th Form Education Contribution.
- 3.2 Not to cause or allow the Commencement of the Development before the Sixth Form Education Contribution has been paid to the County Council.

4 LIBRARY CONTRIBUTION

- 4.1 Prior to the Commencement of the Development to pay to the County Council the Library Contribution.
- 4.2 Not to cause or allow the Commencement of the Development before the Library Contribution has been paid to the County Council.

5 FIRE AND RESCUE SERVICE CONTRIBUTION

- 5.1 Prior to the Commencement of the Development to pay to the County Council the Fire and Rescue Service Contribution.

- 5.2 Not to cause or allow the Commencement of the Development
before the Fire and Rescue Service Contribution has been paid to
the County Council

THIRD SCHEDULE

COUNCIL COVENANTS

The Council covenants with the Owner as follows:

1 Affordable Housing Contribution:

- 1.1 Upon receipt of the Affordable Housing Contribution under paragraph 1 of the First Schedule it will hold it in a separately identified interest bearing section of the Council's combined accounts and apply the same together with any interest accruing on it for the purpose specified by this Deed in the vicinity of the Site
- 1.2 Upon written request on or after ten (10) years of the date of receipt of the final instalment of the Affordable Housing Contribution to issue to the party that paid the Affordable Housing Contribution an account certified by the Group Head of Corporate Support, for the time being of the Council detailing how the Affordable Housing Contribution has been expended by the Council.
- 1.3 If or to the extent that any of the Affordable Housing Contribution shall not have been spent by the Council by the end of the period referred to in paragraph 1.2 above the Council shall on such date refund to the party that paid the Affordable Housing Contribution any unexpended part of any of Affordable Housing Contribution together with compound interest on the unexpended part(s) from the date of receipt by the Council of the contribution to the date of repayment at the base rate of the Bank of England applicable at the date of repayment calculated on a day to day basis.
- 1.4 If at the end of the period referred to in paragraph 1.2 of this Schedule the Council shall have entered into a contract or other legally binding obligation to expend the Affordable Housing Contribution or part thereof for the purposes specified in paragraph 1.1 then the Council shall not be required to refund any part of the Affordable Housing Contribution required for those purposes but shall as soon as possible following the completion of the said contract or other legally binding commitment account to the party that paid the Affordable Housing Contribution in the manner set out in paragraph 1.2 of this Schedule and refund any unexpended part of the Affordable Housing Contribution in the manner set out in paragraph 1.3 of this Schedule

FOURTH SCHEDULE

County Council Covenants

The County Council covenants with the Owner as follows:

1 Primary Education Contribution

- 1.1 Upon receipt of the Primary Education Contribution under paragraph 3 of the Second Schedule it will hold it in a separately identified interest bearing section of the County Council's combined accounts and apply the same together with any interest accruing on it for the purpose specified by this Deed in the vicinity of the Land.
- 1.2 Upon written request on or after ten (10) years of the date of receipt of the final instalment of the Primary Education Contribution to issue to the party that paid the Primary Education Contribution an account certified by the Director of Finance, Performance and Procurement for the time being of the County Council detailing how the Primary Education Contribution has been expended by the County Council.
- 1.3 If or to the extent that any of the Primary Education Contribution shall not have been spent by the County Council by the end of the period referred to in paragraph 1.2 above the County Council shall on such date refund to the party that paid the Primary Education Contribution any unexpended part of any of Primary Education Contribution together with compound interest on the unexpended part(s) from the date of receipt by the County Council of the contribution to the date of repayment at the base rate of the Bank of England applicable at the date of repayment calculated on a day to day basis.
- 1.4 If at the end of the period referred to in paragraph 1.2 of this Schedule the County Council shall have entered into a contract or other legally binding obligation to expend the Primary Education Contribution or part thereof for the purposes specified in paragraph 1.1 then the County Council shall not be required to refund any part of the Primary Education Contribution required for those purposes but shall as soon as possible following the completion of the said contract or other legally binding commitment account to the party that paid the Primary Education Contribution in the manner set out in paragraph 1.2 of this Schedule and refund any unexpended part of the Primary Education Contribution in the manner set out in paragraph 1.3 of this Schedule

2 SECONDARY EDUCATION CONTRIBUTION

- 2.1 Upon receipt of each instalment of the Secondary Education Contribution under paragraph 2 of the Second Schedule it will hold it in a separately identified interest bearing section of the County Council's combined accounts and apply the same together with any interest accruing on it for the purpose specified by this Deed in the vicinity of the

Land.

- 2.2 Upon written request on or after ten (10) years of the date of receipt of the final instalment of the Secondary Education Contribution to issue to the party that paid the Secondary Education Contribution an account certified by the Director of Finance, Performance and Procurement for the time being of the County Council detailing how the Secondary Education Contribution has been expended by the County Council.
- 2.3 If or to the extent that any of the Secondary Education Contribution shall not have been spent by the County Council by the end of the period referred to in paragraph 2.2 above the County Council shall on such date refund to the party that paid the Secondary Education Contribution any unexpended part of any of Secondary Education Contribution together with compound interest on the unexpended part(s) from the date of receipt by the County Council of the contribution to the date of repayment at the base rate of the Bank of England applicable at the date of repayment calculated on a day to day basis.
- 2.4 If at the end of the period referred to in paragraph 2.2 of this Schedule the County Council shall have entered into a contract or other legally binding obligation to expend the Secondary Education Contribution or part thereof for the purposes specified in paragraph 2.1 then the County Council shall not be required to refund any part of the Secondary Education Contribution required for those purposes but shall as soon as possible following the completion of the said contract or other legally binding commitment account to the party that paid the Secondary Education Contribution in the manner set out in paragraph 2.2 of this Schedule and refund any unexpended part of the Secondary Education Contribution in the manner set out in paragraph 2.3 of this Schedule.

3 Sixth Form Education Contribution

- 3.1 Upon receipt of the Sixth Form Education Contribution under paragraph 3 of Second Schedule it will hold it in a separately identified interest bearing section of the County Council's combined accounts and apply the same together with any interest accruing on it for the purpose specified by this Deed in the vicinity of the Land.
- 3.2 Upon written request on or after ten (10) years of the date of receipt of the final instalment of the Sixth Form Education Contribution to issue to the party that paid the Sixth Form Education Contribution an account certified by the Director of Finance, Performance and Procurement for the time being of the County Council detailing how the Sixth Form Education Contribution has been expended by the County Council.
- 3.3 If or to the extent that any of the Sixth Form Education Contribution shall not have been spent by the County Council by the end of the period referred to in paragraph 3.2 above the County Council shall on such date refund to the party that paid the 6th Form Education

Contribution any unexpended part of any of 6th Form Education Contribution together with compound interest on the unexpended part(s) from the date of receipt by the County Council of the contribution to the date of repayment at the base rate of the Bank of England applicable at the date of repayment calculated on a day to day basis.

- 3.4 If at the end of the period referred to in paragraph 3.2 of this Schedule the County Council shall have entered into a contract or other legally binding obligation to expend the Sixth Form Education Contribution or part thereof for the purposes specified in paragraph 3.1 then the County Council shall not be required to refund any part of the Sixth Form Education Contribution required for those purposes but shall as soon as possible following the completion of the said contract or other legally binding commitment account to the party that paid the Sixth Form Education Contribution in the manner set out in paragraph 3.2 of this Schedule and refund any unexpended part of the Further Education Contribution in the manner set out in paragraph 3.3 of this Schedule.

4 LIBRARY CONTRIBUTION

- 4.1 Upon receipt of the Library Contribution under paragraph 4 of the Second Schedule it will hold it in a separately identified interest bearing section of the County Council's combined accounts and apply the same together with any interest accruing on it for the purpose specified by this Deed in the vicinity of the Land.
- 4.2 Upon written request on or after ten (10) years of the date of receipt of the final instalment of the Library Contribution to issue to the party that paid the Library Contribution an account certified by the Director of Finance, Performance and Procurement for the time being of the County Council detailing how the Library Contribution has been expended by the County Council.
- 4.3 If or to the extent that any of the Library Contribution shall not have been spent by the County Council by the end of the period referred to in paragraph 4.2 above the County Council shall on such date refund to the party that paid the Library Contribution any unexpended part of any of Library Contribution together with compound interest on the unexpended part(s) from the date of receipt by the County Council of the contribution to the date of repayment at the base rate of the Bank of England applicable at the date of repayment calculated on a day to day basis.
- 4.4 If at the end of the period referred to in paragraph 4.2 of this Schedule the County Council shall have entered into a contract or other legally binding obligation to expend the Library Contribution or part thereof for the purposes specified in paragraph 4.1 then the County Council shall not be required to refund any part of the Library Contribution required for those purposes but shall as soon as possible following the completion of the said contract or other legally binding commitment

account to the party that paid the Library Contribution in the manner set out in paragraph 4.2 of this Schedule and refund any unexpended part of the Library Contribution in the manner set out in paragraph 4.3 of this Schedule.

5 FIRE AND RESCUE SERVICE CONTRIBUTION

- 5.1 Upon receipt of the Fire and Rescue Service Contribution under paragraph 5 of Second Schedule it will hold it in a separately identified interest bearing section of the County Council's combined accounts and apply the same together with any interest accruing on it for the purpose specified by this Deed in the vicinity of the Land.
- 5.2 Upon written request on or after ten (10) years of the date of receipt of the final instalment of the Fire and Rescue Service Contribution to issue to the party that paid the Fire and Rescue Service Contribution an account certified by the Director of Finance, Performance and Procurement for the time being of the County Council detailing how the Fire and Rescue Service Contribution has been expended by the County Council.
- 5.3 If or to the extent that any of the Fire and Rescue Service Contribution shall not have been spent by the County Council by the end of the period referred to in paragraph 5.2 above the County Council shall on such date refund to the party that paid the Fire and Rescue Service Contribution any unexpended part of any of Fire and Rescue Service Contribution together with compound interest on the unexpended part(s) from the date of receipt by the County Council of the contribution to the date of repayment at the base rate of the Bank of England applicable at the date of repayment calculated on a day to day basis.
- 5.4 If at the end of the period referred to in paragraph 5.2 of this Schedule the County Council shall have entered into a contract or other legally binding obligation to expend the Fire and Rescue Service Contribution or part thereof for the purposes specified in paragraph 5.1 then the County Council shall not be required to refund any part of the Fire and Rescue Service Contribution required for those purposes but shall as soon as possible following the completion of the said contract or other legally binding commitment account to the party that paid the Fire and Rescue Service Contribution in the manner set out in paragraph 5.2 of this Schedule and refund any unexpended part of the Fire and Rescue Service Contribution in the manner set out in paragraph 5.3 of this Schedule.

EXECUTED and delivered as a deed on the date of this Agreement

Executed as a deed by affixing the)
Common seal of ARUN DISTRICT)
COUNCIL)

In the presence of:

Authorised signatory

Name: EDWARD JENKIN

Job Title PROPERTY MANAGER

Seal Book number: 146/2019

Executed as a deed by affixing the)
Common seal of WEST SUSSEX)
COUNTY COUNCIL)

In the presence of:

Authorised signatory

Name:

Job Title

Seal Book number:

SIGNED as a deed by
PETER HUDSON

In the presence of:

Witness:

Name: N. B. J. J. J.

Address: 3 Station Lane, West End, Bognor Regis

Occupation: Surveyor

(CMS6826) Section 106 agreement in respect of Land at Westside Supplies, Unit West of 17 & 18
Durban Road, Bognor Regis PO22 9QT. Planning ref: BR/90/18/PL

APPENDIX 1

PLAN



